



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
TEGE EO Examinations Mail Stop 4920 DAL
1100 Commerce St.
Dallas, Texas 75242

Date: August 15, 2016

Number: **201646007**
Release Date: 11/10/2016

UIL: 501.05-00

Taxpayer Identification Number:

Person to Contact:

Employee Identification Number:

Employee Telephone Number:

CERTIFIED MAIL – RETURN RECEIPT

Dear :

This is a final adverse determination regarding your exempt status under section 501(c)(5) of the Internal Revenue Code. You are no longer exempt under section 501(a) of the Code for the tax year ending December 31, 20XX. This letter is not a determination of your exempt status under section 501 for any other period.

The revocation of your exempt status was made for the following reason(s):

You incorrectly self-declared your exempt status under IRC 501(c)(5) as a labor, agricultural or horticultural organization on your Form 990 for the year ending December 31, 20XX. You do not have as your objectives the betterment of the conditions of those engaged in labor, agricultural or horticultural pursuits, the improvement of the grade of their products, or the development of a higher degree of efficiency in their respective occupations.

You are not operated as a labor, agricultural or horticultural organization within the meaning of IRC 501(c)(5). Consequently your self-declared exempt status under IRC 501(c)(5) should be revoked for the tax year ending December 31, 20XX.

Contributions to your organization are no longer deductible under IRC §170 for the tax year ending December 31, 20XX.

You are required to file an income tax return on Form 1120. This return should be filed with the appropriate Service Center for the tax year ending December 31, 20XX in accordance with the

instructions of the return.

Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination under the declaratory judgment provisions of section 7428 of the Code, a petition to the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia must be filed before the 91st Day after the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing petitions for declaratory judgments by referring to the enclosed Publication 892. You may write to the United States Tax Court at the following address:

United States Tax Court
400 Second Street, NW
Washington, DC 20217

You also have the right to contact the Office of the Taxpayer Advocate. The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit taxpayeradvocate.irs.gov or call 1-877-777-4778. If you prefer, you may contact your local Taxpayer Advocate at:

Internal Revenue Service
Office of the Taxpayer Advocate

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Margaret Von Lienen
Director, EO Examinations

Enclosures:
Publication 892

IRS

Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
Exempt Organizations Examinations
1100 Commerce Street-MC4900 DAL
Dallas, TX 75242

Date:
May 2, 2016
Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:
Telephone:
Fax:
Manager's Name/ID Number:

Manager's Contact Number:

Response due date:

Certified Mail- Return Receipt Requested

Dear :

Why you are receiving this letter

We propose to revoke your status as an organization described in section 501(c)(5) of the Internal Revenue Code (Code). Enclosed is our report of examination explaining the proposed action.

What you need to do if you agree

If you agree with our proposal, please sign the enclosed Form 6018, *Consent to Proposed Action – Section 7428*, and return it to the contact person at the address listed above (unless you have already provided us a signed Form 6018). We'll issue a final revocation letter determining that you aren't an organization described in section 501(c)(5).

After we issue the final revocation letter, we'll announce that your organization is no longer eligible for contributions deductible under section 170 of the Code.

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final revocation letter. Failing to respond to this proposal will adversely impact your legal standing to seek a declaratory judgment because you failed to exhaust your administrative remedies.

Effect of revocation status

If you receive a final revocation letter, you'll be required to file federal income tax returns for the tax year(s) shown above as well as for subsequent tax years.

What you need to do if you disagree with the proposed revocation

If you disagree with our proposed revocation, you may request a meeting or telephone conference with the supervisor of the IRS contact identified in the heading of this letter. You also may file a protest with the IRS Appeals office by submitting a written request to the contact person at the address listed above within 30 calendar days from the date of this letter. The Appeals office is independent of the Exempt Organizations division and resolves most disputes informally.

For your protest to be valid, it must contain certain specific information including a statement of the facts, the applicable law, and arguments in support of your position. For specific information needed for a valid protest, please refer to page one of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*, and page six of the enclosed Publication 3498, *The Examination Process*. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process. Please note that Fast Track Mediation referred to in Publication 3498 generally doesn't apply after we issue this letter.

You also may request that we refer this matter for technical advice as explained in Publication 892. Please contact the individual identified on the first page of this letter if you are considering requesting technical advice. If we issue a determination letter to you based on a technical advice memorandum issued by the Exempt Organizations Rulings and Agreements office, no further IRS administrative appeal will be available to you.

Contacting the Taxpayer Advocate Office is a taxpayer right

You have the right to contact the office of the Taxpayer Advocate. Their assistance isn't a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate can't reverse a legally correct tax determination or extend the time you have (fixed by law) to file a petition in a United States court. They can, however, see that a tax matter that hasn't been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Internal Revenue Service
Office of the Taxpayer Advocate

For additional information

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Margaret Von Lienen
Director, EO Examinations

Enclosures:
Report of Examination
Form 6018
Publication 892
Publication 3498

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| Form 886A | Department of the Treasury - Internal Revenue Service Explanation of Items | Schedule No. or Exhibit |
| Name of Taxpayer | | Year/Period Ended 12/31/20XX |

ISSUE

Does the _____ (the organization) qualify for tax exemption under IRC 501(c)(5)?

FACTS

The _____ indicated on its December 31, 20XX Form 990 that it considered itself to be exempt under IRC 501(c)(5) as a labor, agricultural, and horticultural organization. The Agent examining the organization found that the _____ is actually an all-volunteer fire department. The organization has been in existence since the 18XXs. It is a nonprofit organization which is organized and operated as a volunteer fire company that is composed of over XXX members. This volunteer fire department provides fire protection, ambulance and rescue services to the communities of _____ and _____ in _____. The organization owns the following buildings:

1. The department's main headquarters located at _____ in _____
2. The _____ in the northeastern portion of the district.

The _____ district has provided the _____ with a fleet of XX fully equipped emergency vehicles which are housed in the above facilities.

LAW

IRC 501(c)(5) Labor, agricultural or horticultural organizations

Reg.1.501(c)(5)-1(a) The organizations contemplated by section 501(c)(5) as entitled to exemption from income taxation are those which (1) Have no net earnings inuring to the benefit of any member, and (2) Have as their objectives the betterment of the conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

IRC 501(c)(4)(A) Civic League or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local association of employees, the membership of which is limited to the employees of a designated person or person in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

Revenue Ruling 74-361, 1974-2 CB 159 (January 01, 1974) provides, in part, that "Because the activities of this organization (providing fire and rescue services for the general community) may also be regarded as promoting the common good and general welfare of the community, the

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organization could have applied for and received a ruling recognizing its exemption from Federal income tax as a social welfare organization described in section 501(c)(4) of the Code.

IRC Section 501(c)(3) provides tax exemption for corporations and foundations that are operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Providing fire and rescue service for the general community has been held to be a charitable purpose because it lessens the burden of government. *Sherman v. Richmond Hose Co.*, 230 N.Y. 462, 130 N.E. 613 (1921); *Magill v. Brown*, Fed. Case No. 8952 (C.C. E.D. Pa., 1833); *Roy G. McKenna*, 5 T.C. 712 (1945), *acq.*, 1950-2 C.B. 3. See also *Rev. Rul. 69-174*, 1969-1 C.B. 149, which holds that rescue service for the relief of distressed persons is also a charitable purpose.

Revenue Ruling 71-47, 1971-1 CB 92 (January 01, 1971), contributions or gifts to nonprofit volunteer fire companies which are for the use of a political subdivision of a State for exclusively public purposes and are deductible under section 170(c)(1) of the code

GOVERNMENT'S POSITION

incorrectly self-declared their exempt status under 501(c)(5) as a labor, agricultural or horticultural organization on their Form 990 for the year ending December 31, 20XX. The organization does not have its objectives in the betterment of the conditions of those engaged in labor, agricultural or horticultural pursuits, the improvement of the grade of their products, or the development of a higher degree of efficiency in their respective occupations.

does provide emergency fire, ambulance and rescue services to the communities of and in . These types of services can be regarded as promoting the common good and general welfare of the community which could qualify them under IRC 501(c)(4). After the organization's revocation of its self-declare IRC 501(c)(5) status it could self-declare under IRC 501(c)(4) by filing Form 990 and indicating 501(c)(4) as its exempt status.

The organization's activities could also be considered charitable within the meaning of IRC 501(c)(3) and *Rev. Rul. 69-174*. If the organization choose to pursue exemption under IRC 501(c)(3) it cannot self-declare its exemption but would need to a file Form 1023 with the Internal Revenue Service.

CONCLUSION

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| Form 886A | Department of the Treasury - Internal Revenue Service Explanation of Items | Schedule No. or Exhibit |
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The _____ is not operated as a labor, agricultural or horticultural organization within the meaning of IRC 501(c)(5). Consequently its self-declared exempt status under IRC 501(c)(5) should be revoked as of January 1, 20XX.